

04.05.2022
Court No. 19
Item no.25
CP

WPA 20824 of 2021

Shibani Bhattacharjee & ors.
Vs.
The Kolkata Municipal Corporation & ors.

Mr. Nitai Ch. Saha
Mr. Santanu Barik
Mr. A. C. Majumder

....for the petitioners.

Mr. Bibek Jyoti Basu
Mr. Uttam Kumar De

....for the State.

Mr. Ejaz Khan
Mr. Pradip Kr. Dey
Mr. Debnath Mahato

....for the respondent no. 8.

The petitioner alleges that the respondent nos. 8 and 9 have raised an unauthorized construction at Premises No. 222/1, Diamond Harbour Road within Ward No. 132 under the Kolkata Municipal Corporation (hereinafter referred to as 'the corporation').

Reliance has been placed on an intimation given under the Right to Information Act dated March 19, 2021. The petitioners had made a query before the corporation as to whether any site plan and/or sanction plan had been granted in favour of the said respondent no. 8. The authorities replied that upon searching the records, no plan had been found. The petitioners filed a complaint with the

competent authority of the corporation. It is also submitted that the said complaint has not yet disposed of. Further allegation is that no steps have been taken in respect of such construction, despite there being a specific observation of the corporation that the construction on the above plot of land was not sanctioned by the authority.

The writ petition is disposed of with a direction upon the competent authority of the corporation to decide the complaint made by the petitioners being Annexure – P3 at page 32 of the writ petition in accordance with law upon granting an opportunity of hearing to the petitioners as also the respondent nos. 8 and 9 and any other interested party, by adopting the following procedure:

- a) An inspection of the premises shall be conducted. Such inspection shall be held in the presence of the parties, with 48 hours advance notice to the petitioners and the respondent nos. 8 and 9. If the parties are not available for service of the notice, the notice shall be affixed at a conspicuous place at the premises in question.
- b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and was continuing, the

authorities may take such interim measures, by stopping such construction.

- c) The report of the inspection shall be prepared along with the sketch map indicating the extent of deviation, if any.
- d) Such report shall be handed over to the petitioners as also the respondent nos. 8 and 9.
- e) A hearing shall be given to the petitioners and respondent nos. 8 and 9. The parties must also be allowed to furnish their written objection/version to the said report and adduce oral and documentary evidence in support of their contentions, before the competent authority.
- f) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion in terms of the statute.

The court has not gone into the merits of the claims and counter-claims of the parties and the issues shall be decided independently.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)